

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VICTOR TAGLE, SR.,

Case No. 2:20-cv-00082-GMN-DJA

Petitioner,

v.

ORDER

STATE OF NEVADA, et al.,

Respondents.

Petitioner Victor Tagle, Sr. has filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter comes before the Court for initial review under the Rules Governing Section 2254 Cases. For the reasons discussed below, the Court dismisses the petition for lack of jurisdiction.

Tagle challenges a 2012 conviction and sentence imposed by the Eighth Judicial District Court for Clark County, Nevada. *State of Nevada v. Tagle*, Case No. C-11-276096-1.¹ The Court takes judicial notice of the many habeas petitions Tagle has filed in the District of Nevada, including but not limited to: 2:13-cv-1832-JCM-CWH; 2:15-cv-0214-GMN-PAL; 2:16-cv-0045-RCJ-VCF; 2:16-cv-0082-APG-GWF; 3:13-cv-0264-MMD-VPC; 3:13-cv-0266-RCJ-VPC; and 3:13-cv-0318-HDM-WGC.

Because a prior federal petition was decided on its merits, Tagle attacks the same judgment of conviction, and the claims Tagle raises here are based on facts that had occurred by the time of the prior petition, this petition is second or successive. *See Brown v. Muniz*, 889 F.3d 661, 667 (9th Cir. 2018) (“[A] federal habeas petition is second or successive if the facts underlying the claim occurred by the time of the initial petition, . . . and if the petition challenges the same state court judgment as the initial petition.”). Under 28 U.S.C. § 2244(b)(3), before a second or

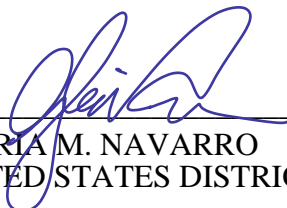
¹ The Court takes judicial notice of the online docket records of the Eighth Judicial District Court and Nevada appellate courts. The docket records may be accessed by the public online at: <https://www.clarkcountycourts.us/Anonymous/default.aspx> and <http://caseinfo.nvsupremecourt.us/public/caseSearch.do>.

1 successive petition is filed in the federal district court, a petitioner must move in the court of
2 appeals for an order authorizing the district court to consider the petition. A federal district court
3 does not have jurisdiction to entertain a successive petition absent such permission. *Brown*, 889
4 F.3d at 667. Tagle has made no allegation or showing that he has received authorization from the
5 Court of Appeals to file this second or successive petition, nor do the records of the Court of
6 Appeals reflect that he has sought to obtain any such authorization. This second or successive
7 petition must therefore be dismissed for lack of jurisdiction.

8 **IT IS THEREFORE ORDERED:**

- 9 1. This action is dismissed without prejudice for lack of jurisdiction.
- 10 2. Tagle is denied a certificate of appealability, as jurists of reason would not find the
11 dismissal of the petition on jurisdictional grounds to be debatable or wrong.
- 12 3. Pursuant to Rule 4 of the Rules Governing Section 2254 Cases, that the Clerk will make
13 informal electronic service upon Respondents by adding Nevada Attorney General
14 Aaron D. Ford as counsel for Respondents and directing a notice of electronic filing of
15 this order to his office. No response is required from Respondents other than to respond
16 to any orders of a reviewing court.
- 17 4. The Clerk of Court is directed to file the petition (ECF No. 1-1).
- 18 5. The Clerk of Court is further instructed to enter final judgment accordingly, dismissing
19 this action without prejudice, and close this case.

20 DATED: May 8, 2020

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23 GLORIA M. NAVARRO
24 UNITED STATES DISTRICT JUDGE
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